

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following amendments and remarks is respectfully requested. No new matter has been introduced. Claims 1 and 4-6 have been amended. Claim 1 has been amended to include: a perforate interior wall located within the chamber, the perforate interior wall being substantially flat; and that the elastic wall is substantially adjacent the perforate interior wall when in an unstretched state. For support see Figs. 1-6 and page 3, lines 26-28. Additionally, claims 1 and 6 have been amended to require a rigid wall instead of a fixed wall. For support see page 2, lines 17-19. Claim 4 has been amended to depend on claim 1, and claims 4 and 5 have been amended to provide proper antecedent basis. Claim 6 has also been amended to require that the elastic wall is sealed at a mounting position to the rigid wall, and that the diaphragm varies in thickness outside immediate vicinity of the mounting position. For support see page 9, lines 2-5.

Information Disclosure Statement

The office action notes that two identical Information Disclosure Statements (IDS) were filed. Applicants apologize for any confusion created, and note that a first IDS was prepared and sent on July 19, 2002, which the Patent and Trademark Office (PTO) recorded as filed on July 23, 2002 as paper no. 7. The first IDS indicated that it was sent prior to a first office action. However, a first office action was sent on July 18, 2002 and thus, the first IDS and first office action crossed in the mail. To ensure that the references were properly filed, Applicants filed a second IDS, containing identical references to the first IDS, which the PTO recorded as filed on December 9, 2002 as paper no. 10. The filing of the second IDS properly reflected that it was filed after the first office but before a final office action, and included the proper fee.

Drawings

The proposed drawing corrections filed on November 25, 2002 have been approved and corrected drawings are requested in reply to the subject office action. In particular, reference numbers 28 and 44 have been deleted from Fig. 2, reference numbers 28, 55, 57, and 59 have been deleted from Fig. 5, and reference numbers 55 and 59 have been deleted from Fig. 6. Accordingly, substitute sheets 1/8, 3/8, and 4/8 accompany this amendment.

Rejection under 35 U.S.C. §112

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the office action suggests that it is unclear whether the "flat wall" is a required element of the claimed structure. Accordingly, claim 1 has been amended to overcome this rejection. Specifically, claim 1, as amended, requires: a perforate interior wall within the chamber, the perforate interior wall being substantially flat; and that the elastic wall is substantially adjacent the perforate interior wall when in an unstretched state.

Rejection under 35 U.S.C. §102

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,179,807 (Asmussen). Amended independent claim 1 is directed towards a fluid processing disposable set. The set requires a variable-volume chamber in fluid communication with a fluid port. The chamber is defined by a rigid wall and an elastic wall. A perforate interior wall is located within the chamber, the perforate interior wall being substantially flat. The elastic wall is formed by a convoluted diaphragm, and is substantially adjacent the perforate interior wall when in an unstretched state.

In contrast, Asmussen discloses a bellows 9 forming a chamber 11 that is disposed around the inside of a bowl 1. However, Asmussen neither teaches nor suggest a perforate interior wall located within the chamber, the elastic wall substantially adjacent the interior wall when in an unstretched state, as required by claim 1.

Since Asmussen does not teach every element of amended independent claim 1, claim 1, as amended, is not anticipated under 35 U.S.C. §102(b) by Asmussen and is allowable. Dependent claim 2, 4, and 5 depend on and incorporate independent claim 1, and are allowable for the same reason as discussed above with regard to claim 1, and is further allowable in view of the additional limitations set forth therein.

Claims 6 and 7 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,885,239 (Headley et al., hereinafter Headley). Amended independent claim 6 is directed towards a fluid processing disposable set. The set requires a variable-volume chamber in fluid communication with a fluid port. The chamber is defined by a rigid wall, and an elastic wall

sealed at a mounting position to the rigid wall and formed by a shaped diaphragm. The diaphragm varies in thickness outside immediate vicinity of the mounting position.

In contrast, Headley discloses an elastic wall 31 formed by a shaped diaphragm (see Headley at Fig. 12). The diaphragm includes a circumferential O-ring 35 of greater thickness than the remaining portion of the diaphragm (see Headley at col. 24-27). However, the O-ring 35 is used to seal, at a mounting position, the diaphragm 31 to rigid wall 10 (see Headley at col. 24-27). This is different from amended claim 6, which requires that the diaphragm varies in thickness outside immediate vicinity of the mounting position.

Since Headley does not teach every element of amended independent claim 6, claim 6, as amended, is not anticipated under 35 U.S.C. §102(b) by Headley and is allowable. Dependent claim 7 depends on and incorporate independent claim 6, and is allowable for the same reason as discussed above with regard to claim 6, and is further allowable in view of the additional limitations set forth therein.

The office action further requests an explanation why Applicants state on page 3 of paper No. 8 that Headley discloses an elastic wall formed by a convoluted diaphragm. The subject application states that by definition, shaped diaphragms exhibiting some degree of convolution are shapes that are not planar when in their essentially unstretched position (see page 9, lines 20-22). Furthermore, Fig. 8(a) of the subject application depicts a shaped, convoluted diaphragm made with a single fold 810 located in its central portion (see also page 9, line 28 to page 10, line 2). Accordingly, Applicants consider that the diaphragm shown at Fig. 12 of Headley discloses a convoluted diaphragm similar to the convoluted diaphragm shown in Fig. 8(a) of the subject application.

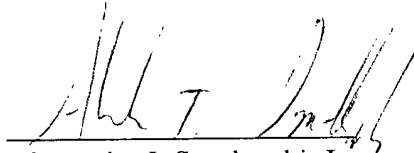
For the reasons set forth above, it is submitted that all pending claims are in condition for allowance. Reconsideration of the claims and a notice of allowance are therefore requested.

It is believed that a two month extension of time is required for this matter. Applicants hereby petition for same and enclose a check to cover the fee for the extension of time. It is believed that no further extension of time is required; however, this conditional petition is being made to provide for the possibility that the applicants have inadvertently overlooked the need for an additional extension of time. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

If the Examiner has any questions as to the allowability of the currently pending claims or if there are any defects which need to be corrected, the Examiner is invited to speak to the Applicant's counsel at the telephone number given below.

DATE: May 22, 2003

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Alex J. Smolenski, Jr.", written over a horizontal line.

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